

**ENACTMENT OF PROVISIONS OF H.R. 5408, THE FLOYD D. SPENCE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001**

P.L. 106-398 Signed into law 30 Oct 2000; effective 27 Feb 2001

§1090. ORGANIZATION AND MANAGEMENT OF CIVIL AIR PATROL.

§1090(a) IN GENERAL - Chapter 909 of title 10, United States Code, is amended to read as follows:

CHAPTER 909--CIVIL AIR PATROL

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§ 9441. Status as federally chartered corporation; purposes.
§ 9442. Status as volunteer civilian auxiliary of the Air Force.
§ 9443. Activities performed as federally chartered nonprofit corporation.
§ 9444. Activities performed as auxiliary of the Air Force.
§ 9445. Funds appropriated for the Civil Air Patrol.
§ 9446. Miscellaneous personnel authorities.
§ 9447. Board of Governors.
§ 9448. Regulations.

§ 9441. Status as federally chartered corporation; purposes

§ 9441(a) STATUS –

§ 9441(a)(1) The Civil Air Patrol is a nonprofit corporation that is federally chartered under section 40301 of title 36.

§ 9441(a)(2) Except as provided in section 9442(b)(2) of this title, the Civil Air Patrol is not an instrumentality of the Federal Government for any purpose.

§ 9441(b) PURPOSES - The purposes of the Civil Air Patrol are set forth in section 40302 of title 36.

§ 9442. Status as volunteer civilian auxiliary of the Air Force

§ 9442(a) VOLUNTEER CIVILIAN AUXILIARY - The Civil Air Patrol is a volunteer civilian auxiliary of the Air Force when the services of the Civil Air Patrol are used by any department or agency in any branch of the Federal Government.

§ 9442(b) USE BY AIR FORCE - (1) The Secretary of the Air Force may use the services of the Civil Air Patrol to fulfill the noncombat programs and missions of the Department of the Air Force.

§ 9442(b)(2) The Civil Air Patrol shall be deemed to be an instrumentality of the United States with respect to any act or omission of the Civil Air Patrol, including any member of the Civil Air Patrol, in carrying out a mission assigned by the Secretary of the Air Force.

§ 9443. Activities performed as federally chartered nonprofit corporation

§ 9443(a) USE OF FEDERALLY PROVIDED RESOURCES - In its status as a federally chartered nonprofit corporation, the Civil Air Patrol may use equipment, supplies, and other resources, including aircraft, motor vehicles, computers, and communications equipment, provided to the Civil Air Patrol by a department or agency of the Federal Government or acquired by or for the Civil Air Patrol with appropriated funds (or with funds of the Civil Air Patrol, but reimbursed from appropriated funds) --

§ 9443(a)(1) to provide assistance requested by State or local governmental authorities to perform disaster relief missions and activities, other emergency missions and activities, and non emergency missions and activities; and

§ 9443(a)(2) to fulfill its other purposes set forth in section 40302 of title 36.

§ 9443(b) USE SUBJECT TO APPLICABLE LAWS - The use of equipment, supplies, or other resources under subsection (a) is subject to the laws and regulations that govern the use by nonprofit corporations of federally provided assets or of assets purchased with appropriated funds, as the case may be.

§ 9443(c) AUTHORITY NOT CONTINGENT ON REIMBURSEMENT - The authority for the Civil Air Patrol to provide assistance under subsection (a)(1) is not contingent on the Civil Air Patrol being reimbursed for the cost of providing the assistance. If the Civil Air Patrol elects to require reimbursement for the provision of assistance under such subsection, the Civil Air Patrol may establish the reimbursement rate at a rate less than the rates charged by private sector sources for equivalent services.

§ 9443(d) LIABILITY INSURANCE - The Secretary of the Air Force may provide the Civil Air Patrol with funds for paying the cost of liability insurance to cover missions and activities carried out under this section.

§ 9444. Activities performed as auxiliary of the Air Force

§ 9444(a) AIR FORCE SUPPORT FOR ACTIVITIES - The Secretary of the Air Force may furnish to the Civil Air Patrol in accordance with this section any equipment, supplies, and other resources that the Secretary determines necessary to enable the Civil Air Patrol to fulfill the missions assigned by the Secretary to the Civil Air Patrol as an auxiliary of the Air Force.

§ 9444(b) FORMS OF AIR FORCE SUPPORT - The Secretary of the Air Force may, under subsection (a) --

§ 9444(b)(1) give, lend, or sell to the Civil Air Patrol without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) —

§ 9444(b)(1)(A) major items of equipment (including aircraft, motor vehicles, computers, and communications equipment) that are excess to the military departments; and

§ 9444(b)(1)(B) necessary related supplies and training aids that are excess to the military departments;

§ 9444(b)(2) permit the use, with or without charge, of services and facilities of the Air Force;

§ 9444(b)(3) furnish supplies (including fuel, lubricants, and other items required for vehicle and aircraft operations) or provide funds for the acquisition of supplies;

§ 9444(b)(4) establish, maintain, and supply liaison officers of the Air Force at the national, regional, State, and territorial headquarters of the Civil Air Patrol;

§ 9444(b)(5) detail or assign any member of the Air Force or any officer, employee, or contractor of the Department of the Air Force to any liaison office at the national, regional, State, or territorial headquarters of the Civil Air Patrol;

§ 9444(b)(6) detail any member of the Air Force or any officer, employee, or contractor of the Department of the Air Force to any unit or installation of the Civil Air Patrol to assist in the training programs of the Civil Air Patrol;

§ 9444(b)(7) authorize the payment of travel expenses and allowances, at rates not to exceed those paid to employees of the United States under subchapter I of chapter 57 of title 5, to members of the Civil Air Patrol while the members are carrying out programs or missions specifically assigned by the Air Force;

§ 9444(b)(8) provide funds for the national headquarters of the Civil Air Patrol, including –

§ 9444(b)(8)(A) funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent, utilities, other operational expenses of the national headquarters; and

§ 9444(b)(8)(B) to the extent considered necessary by the Secretary of the Air Force to fulfill Air Force requirements, funds for the payment of compensation and benefits for key staff at regional, State, or territorial headquarters;

§ 9444(b)(9) authorize the payment of expenses of placing into serviceable condition, improving, and maintaining equipment (including aircraft, motor vehicles, computers, and communications equipment) owned or leased by the Civil Air Patrol;

§ 9444(b)(10) provide funds for the lease or purchase of items of equipment that the Secretary determines necessary for the Civil Air Patrol;

§ 9444(b)(11) support the Civil Air Patrol cadet program by furnishing –

§ 9444(b)(11)(A) articles of the Air Force uniform to cadets without cost; and

§ 9444(b)(11)(B) any other support that the Secretary of the Air Force determines is consistent with Air Force missions and objectives; and

§ 9444(b)(12) provide support, including appropriated funds, for the Civil Air Patrol aerospace education program to the extent that the Secretary of the Air Force determines appropriate for furthering the fulfillment of Air Force missions and objectives.

§ 9444(c) ASSISTANCE BY OTHER AGENCIES –

§ 9444(c)(1) The Secretary of the Air Force may arrange for the use by the Civil Air Patrol of such facilities and services under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, or the head of any other department or agency of the United States as the Secretary of the Air Force considers to be needed by the Civil Air Patrol to carry out its mission.

§ 9444(c)(2) An arrangement for use of facilities or services of a military department or other department or agency under this subsection shall be subject to the agreement of the Secretary of the military department or head of the other department or agency, as the case may be.

§ 9444(c)(3) Each arrangement under this subsection shall be made in accordance with regulations prescribed under section 9448 of this title.

§ 9445. Funds appropriated for the Civil Air Patrol

Funds appropriated for the Civil Air Patrol shall be available only for the exclusive use of the Civil Air Patrol.

§ 9446. Miscellaneous personnel authorities

§ 9446(a) USE OF RETIRED AIR FORCE PERSONNEL –

§ 9446(a)(1) Upon the request of a person retired from service in the Air Force, the Secretary of the Air Force may enter into a personal services contract with that person providing for the person to serve as an administrator or liaison officer for the Civil Air Patrol. The qualifications of a person to provide the services shall be determined and approved in accordance with regulations prescribed under section 9448 of this title.

§ 9446(a)(2) To the extent provided in a contract under paragraph (1), a person providing services under the contract may accept services on behalf of the Air Force.

§ 9446(a)(3) A person, while providing services under a contract authorized under paragraph (1), may not be considered to be on active duty or inactive-duty training for any purpose.

§ 9446(b) USE OF CIVIL AIR PATROL CHAPLAINS - The Secretary of the Air Force may use the services of Civil Air Patrol chaplains in support of the Air Force active duty and reserve component forces to the extent and under conditions that the Secretary determines appropriate.

§ 9447. Board of Governors

§ 9447(a) GOVERNING BODY - The Board of Governors of the Civil Air Patrol is the governing body of the Civil Air Patrol.

§ 9447(b) COMPOSITION - The Board of Governors is composed of 11 members as follows:

§ 9447(b)(1) Four members appointed by the Secretary of the Air Force, who may be active or retired officers of the Air Force (including reserve components of the Air Force), employees of the United States, or private citizens.

§ 9447(b)(2) Four members of the Civil Air Patrol, selected in accordance with the constitution and bylaws of the Civil Air Patrol.

§ 9447(b)(3) Three members appointed or selected as provided in subsection (c) from among personnel of any Federal Government agencies, public corporations, nonprofit associations, and other organizations that have an interest and expertise in civil aviation and the Civil Air Patrol mission.

§ 9447(c) APPOINTMENTS FROM INTERESTED ORGANIZATIONS –

§ 9447(c)(1) Subject to paragraph (2), the members of the Board of Governors referred to in subsection (b)(3) shall be appointed jointly by the Secretary of the Air Force and the National Commander of the Civil Air Patrol.

§ 9447(c)(2) Any vacancy in the position of a member referred to in paragraph (1) that is not filled under that paragraph within 90 days shall be filled by majority vote of the other members of the Board.

§ 9447(d) CHAIRMAN - The Chairman of the Board of Governors shall be chosen by the members of the Board of Governors from among the members of the Board referred to in paragraphs (1) and (2) of subsection (b) and shall serve for a term of two years. The position of Chairman shall be held on a rotating basis between members of the Board appointed by the Secretary of the Air Force under paragraph (1) of subsection (b) and members of the Board selected under paragraph (2) of that subsection.

§ 9447(e) POWERS –

§ 9447(e)(1) The Board of Governors shall, subject to paragraphs (2) and (3), exercise the powers granted to the Civil Air Patrol under section 40304 of title 36.

§ 9447(e)(2) Any exercise by the Board of the power to amend the constitution or bylaws of the Civil Air Patrol or to adopt a new constitution or bylaws shall be subject to approval by a majority of the members of the Board.

§ 9447(e)(3) Neither the Board of Governors nor any other component of the Civil Air Patrol may modify or terminate any requirement or authority set forth in this section.

§ 9447(f) PERSONAL LIABILITY FOR BREACH OF A FIDUCIARY DUTY –

§ 9447(f)(1) Subject to paragraph (2), the Board of Governors may take such action as is necessary to limit the personal liability of a member of the Board of Governors to the Civil Air Patrol, or to any of its members, for monetary damages for a breach of fiduciary duty while serving as a member of the Board.

§ 9447(f)(2) The Board may not limit the liability of a member of the Board of Governors to the Civil Air Patrol, or to any of its members, for monetary damages for any of the following:

§ 9447(f)(2)(A) A breach of the member's duty of loyalty to the Civil Air Patrol or its members.

§ 9447(f)(2)(B) Any act or omission that is not in good faith or that involves intentional misconduct or a knowing violation of law.

§ 9447(f)(2)(C) Participation in any transaction from which the member directly or indirectly derives an improper personal benefit.

§ 9447(f)(3) Nothing in this subsection shall be construed as rendering section 207 or 208 of title 18 inapplicable in any respect to a member of the Board of Governors who is a member of the Air Force on active duty, an officer on a retired list of the Air Force, or an employee of the United States.

§ 9447(g) PERSONAL LIABILITY FOR BREACH OF A FIDUCIARY DUTY –

§ 9447(g)(1) Except as provided in paragraph (2), no member of the Board of Governors or officer of the Civil Air Patrol shall be personally liable for damages for any injury or death or loss or damage of property resulting from a tortious act or omission of an employee or member of the Civil Air Patrol.

§ 9447(g)(2) Paragraph (1) does not apply to a member of the Board of Governors or officer of the Civil Air Patrol for a tortious act or omission in which the member or officer, as the case may be, was personally involved, whether in breach of a civil duty or in commission of a criminal offense.

§ 9447(g)(3) Nothing in this subsection shall be construed to restrict the applicability of common law protections and rights that a member of the Board of Governors or officer of the Civil Air Patrol may have.

§ 9447(g)(4) The protections provided under this subsection are in addition to the protections provided under subsection (f).

§ 9448. Regulations

§ 9448(a) AUTHORITY - The Secretary of the Air Force shall prescribe regulations for the administration of this chapter.

§ 9448(b) REQUIRED REGULATIONS - The regulations shall include the following:

§ 9448(b)(1) Regulations governing the conduct of the activities of the Civil Air Patrol when it is performing its duties as a volunteer civilian auxiliary of the Air Force under section 9442 of this title.

§ 9448(b)(2) Regulations for providing support by the Air Force and for arranging assistance by other agencies under section 9444 of this title.

§ 9448(b)(3) Regulations governing the qualifications of retired Air Force personnel to serve as an administrator or liaison officer for the Civil Air Patrol under a personal services contract entered into under section 9446(a) of this title.

§ 9448(c) APPROVAL BY SECRETARY OF DEFENSE - The regulations required by subsection (b)(2) shall be subject to the approval of the Secretary of Defense.'.

§ 9448(d) CONFORMING AMENDMENTS –

§ 9448(d)(1) Section 40302 of title 36, United States Code, is amended --

§ 9448(d)(1)(A) by striking 'to--' in the matter preceding paragraph (1) and inserting 'as follows:';

§ 9448(d)(1)(B) by inserting 'To' after the paragraph designation in each of paragraphs (1), (2), (3), and (4);

§ 9448(d)(1)(C) by striking the semicolon at the end of paragraphs (1)(B) and (2) and inserting a period;

§ 9448(d)(1)(D) by striking '; and' at the end of paragraph (3) and inserting a period; and

§ 9448(d)(1)(E) by adding at the end the following: '(5) To assist the Department of the Air Force in fulfilling its noncombat programs and missions.'.

§ 9448(d)(2) Section 40303 of such title is amended --

§ 9448(d)(2)(A) by inserting '(a) MEMBERSHIP- ' before 'Eligibility'; and (ii) by adding at the end the following: '(b) GOVERNING BODY- The Civil Air Patrol has a Board of Governors. The composition and responsibilities of the Board of Governors are set forth in section 9447 of title 10.'.

§ 9448(d)(2)(B) The heading for such section is amended to read as follows:

'§ 40303. Membership and governing body'.

§ 9448(e) The item relating to such section in the table of sections at the beginning of chapter 403 of title 36, United States Code, is amended to read as follows:

'40303. Membership and governing body.'.

§ 9448(f) EFFECTIVE DATE- The amendments made by this section shall take effect 120 days after the date of the enactment of this Act.